

## INTERVIEW SUMMARY

Applicant would like to thank Examiner Trinh for the courtesies he has shown him and his attorney, Aaron S. Haleva, in the personal interview held on January 17, 2007 at the U.S. Patent and Trademark Office. In the interview, Applicant demonstrated a commercial embodiment of the invention, and discussed the differences between the presently claimed invention and the cited prior art, in particular the Wegener reference. Applicant's attorney and the Examiner discussed clarifying amendments to the second and third elements of claim 1, and analogous elements of the remaining independent claims, to clarify that the received data includes a content identification signal for the tuned to channel and at least one other channel from the plurality of broadcast channels. Such an amendment would replace current claim language that the Examiner and his supervisor felt was unclear.

## REMARKS

Claims 1-33 are pending in this application. Claims 1, 9, 14, 22 and 30-33 have been amended to reflect the claim language discussed in the personal interview described above. New claims 34-35 are presented. No new matter has been added. Claims 1, 14 and 22 are the independent claims.

In the Office Action, claims 1-3, 5-14 and 18-32 stand rejected under 35 U.S.C. §103(a) over U.S. Publication No. 2002/0055343 to *Stetzler et al.* ("Stetzler") in view of U.S. Patent No. 6,567,660 to *Wegener* ("Wegener"). For at the least the reasons provided below, Applicant respectfully submits that the pending claims are neither taught nor suggested by either reference cited by the Examiner, either individually or in combination. Accordingly, prompt allowance of the pending claims is respectfully requested.

The pending claims of the above-identified application are directed to a system and method for automatically identifying program selections (*e.g.*, particular audio program, or music selections) specified in a user's playlist. As explained in the specification, broadcasting systems exist that provide numerous channels of programming, such as, for example, the more than 100 channels of digital audio content broadcast by Sirius Satellite Radio Inc. of New York, New York. *See Specification* ¶¶0002-03. According to an exemplary embodiment of the present invention, at any given time information descriptive of the particular content actually playing on multiple channels of programming can be evaluated, in accordance with a prioritized playlist created by a user. *Id.* at ¶¶0021-22, 0029-31.

Accordingly, each of the pending claims recite the ability to evaluate the program content on multiple broadcast channels in order to identify desired program content in accordance with a playlist created by the user and then cause a receiver to be tuned to a channel whose content matches a playlist selection. For example, independent claim 1 recites a computer usable medium including computer readable code

for receiving data relating to at least one of a plurality of broadcast channels, the data relating to the at least one of the plurality of broadcast channels, including a content identification signal for said channel and at least one other channel from the plurality of broadcast channels,

and for

processing the received data for automatically tuning a receiver to a specific broadcast channel if the content identification signal for one of said other channels from the plurality of broadcast channels matches a selection in a playlist including a prioritized list of user selections,

wherein the

content identification signal identifies content being broadcast on a given channel.

Independent claims 14 and 22 recite similar limitations for a programmable receiver and a method for receiving personalized broadcasts, respectively. Thus, according to the claimed embodiments of the present invention, descriptive information for the content of at least one other channel than the one currently tuned to can be monitored so that particular content of interest can be automatically selected for the user based on the playlist. The descriptive information that is received and processed is known as a content identification signal or “CIS.” As described in the demonstration portion of the interview, a CIS identifies the content playing on a given channel. Thus, for example, according to an embodiment of the claimed invention, if one is tuned to “Country and Western Hits” and a favorite song is playing on “60s Tunes” (exemplary channel names are fictitious), a receiver can automatically switch to “60s Tunes” by processing the CIS associated with “60s Tunes” and comparing it to a playlist.

Applicant respectfully asserts that the references cited in the pending Office Action, whether taken alone or in combination, in no way teach, or even suggest (i) providing content identification signals for at least one other channel from a plurality of broadcast channels in a communication system — in addition to the content of a particular channel — and (ii) evaluating the content identification signal for said at least one other channel as a function of a prioritized playlist to automatically tune a receiver to a specific broadcast channel, as recited in the pending claims.

As discussed in the interview, and as admitted in the Office Action, Stetzler describes using two receivers to receive transmissions from two transmitters, and playing the signal from one of them. Wegener at Abstract. If programming on the other transmitter is more desirable, the Stetzler system changes what it sends to the speaker and plays the signal coming from the second one. *Id.* However, in order to obtain the information signal from the second signal

(transmitted by the second transmitter) the second receiver has to tune to the second transmission. Thus, as noted by the Examiner, Stetzler does not teach or suggest receiving a content identification signal for more than one of the plurality of broadcast channels. Office Action at 3 (¶4). Thus, Stetzler clearly does not teach or suggest receiving a content identification signal relating to at least one (tuned ) channel and at least one other channel from the plurality of broadcast channels, as is recited in amended claim 1.

The Office Action's citation to Wegener does not cure this glaring defect of Stetzler. As discussed in the interview, Wegener describes a system for broadcasting program content to users of a wireless cellular telephone network. The Wegener system broadcasts such program content over the then unused channels in a cellular telephone network, which are continually identified and monitored as telephone usage varies throughout the day. In some embodiments a schedule of the program content to be broadcast (a "content transmission schedule") can itself be broadcast on a dedicated scheduling channel, "CH S." Wegener at 2:30-35; 8:1-14 and Tables IV and V. While this information can alert a user as to program scheduling changes (which are based on the dynamic changes to the set of channels not then being used for cellular telephone communications), it does not include a content identification signal ("CIS") associated with the content of at least one *different* channel than the one currently tuned to by a user. It is merely a schedule.

Moreover, the claimed CIS is indicative of content actually playing on a given channel. A schedule is thus not a CIS, as it represents information regarding content intended to be played on a given channel at some time in the future, according to a calculated system schedule. *See* Wegener at Tables IV and V. Once a channel is returned to, or returned from, voice channel status the Wegener system reallocates the channels available to the on-demand program content

service, and reassigns programs to the new set of available channels, as shown in Table IV (showing CH 02 switched to voice channel at T6) and Table V (showing CH 02 re-entering content on-demand service at T7), respectively.

Thus, in Wegener, if you are tuned to CH S you get no content, just a schedule. If you are not tuned to CH S, but to a specific channel, you get no information relating to the content then playing on any other channel. In no case do you receive a CIS. Moreover, even if a message such as S2 or S3 is periodically sent on a regular channel, these messages -- at best -- contain the same *schedule* continually provided over channel "CH S", but never contain a CIS. Messages S2 and S3 are not content identification signals. They are scheduling messages regarding programming intended to be broadcast. Messages S2 and S3 precede actual programming (by as much as five minutes) in the system described in Wegener, and are generated based upon the calculations of the reassignment system 138 and the formatting system 140, not based upon the actual broadcast data stream. Nowhere does Wegener describe, or even mention, providing data to a receiver relating to a channel including data identifying the content of that channel and that of at least one other channel from the plurality of broadcast channels in the system. Nowhere does Wegener describe or even mention evaluating this content identification information to select a channel to be played to the user as a function of a playlist. As a result, Wegener does not teach or suggest the evaluation of content information for one channel and at least one other channel from the plurality of broadcast channels in the system for selection of particular content based on a user's playlist, as recited in the pending claims.

The dependent claims, including new claims 34 and 35, are urged as patentable for similar reasons.

Therefore, at least for the reasons set forth above, Stetzler and Wegener, individually or in combination, do not teach or suggest the claimed invention. Accordingly, Applicant respectfully asserts that the pending claims are in condition for allowance. Prompt allowance is earnestly solicited.

Respectfully submitted,

February 21, 2007

By: 

Aaron S. Haleva (Reg. No. 44,733)  
KRAMER LEVIN NAFTALIS & FRANKEL LLP  
1177 Avenue of the Americas  
New York, New York 10036  
(212) 715-9100 (telephone)  
(212) 715-8000 (facsimile)

Attorneys for Applicant